

FISCAL MEMORANDUM
HB 3109 – SB 3356

April 7, 2008

SUMMARY OF AMENDMENT (016113): Deletes all language after the enacting clause. Creates a new felony offense for a person who receives money for the purpose of obtaining or paying for services, labor, materials or equipment and knowingly diverts the funds to a use other than that for which the funds were received. A violation is punishable as theft according to the value of the services, labor, materials or equipment for which the victim paid minus the value of such items actually provided. Any violation also constitutes a violation of the Tennessee Consumer Protection Act of 1977 and shall be construed to constitute an unfair or deceptive act or practice affecting the conduct, trade or commerce and subject to all sanctions, penalties and remedies provided in that act, including attorneys' fees and costs.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$192,600/Incarceration*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures - \$509,100/Incarceration*

Increase State Revenue – Not Significant

Increase Local Revenue – Not Significant

Increase Local Expenditures – Not Significant

Assumptions applied to amendment:

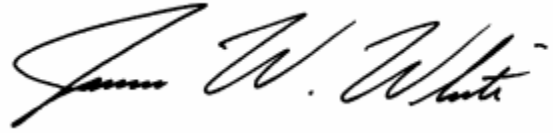
- Twenty-five persons statewide will be convicted of these felony offenses and will receive sentences ranging from a Class E to a Class B felony depending on the value of the services, labor, materials or equipment paid for minus the value of such items actually provided. The Department of Correction (DOC) estimates that of these 25 offenders, three offenders would be convicted of a Class E felony, 10 offenders would be convicted of a Class D felony, 10 offenders would be convicted of a Class C felony, and two offenders would be convicted of a Class B felony as a result of this legislation.

- According to the U.S. Census Bureau, population growth in Tennessee has been 1.09 percent per year for the past 10 years, yielding a projected compound population growth of 13.6 percent over the next 10 years.
- According to the DOC, the average operating cost per inmate per day for calendar year 2008 is \$62.78. Three persons will be convicted of a Class E felony offense and will serve 0.3 years (109.58 days). The cost per inmate at 0.3 years is \$6,879.43 (\$62.78 x 109.58 days). The total additional operating cost for three offenders is \$20,638.29 (\$6,879.43 x 3).
- Ten persons will be convicted of a Class D felony offense and will serve 0.6 years (219.15 days) in the first year. Population growth will result in one additional offender in the tenth year as a result of this bill. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 11 offenders. The cost per inmate at 0.6 years is \$13,758.24 (\$62.78 x 219.15 days). The total additional operating cost for 11 offenders is \$151,340.64 (\$13,758.24 x 11).
- Ten persons will be convicted of a Class C felony offense and will serve 0.9 years (328.73 days) in the first year. Population growth will result in one additional offender in the tenth year as a result of this bill. The maximum cost in the tenth year is based on 11 offenders. The cost per inmate at 0.9 years is \$20,637.67 (\$62.78 x 328.73 days). The total additional operating cost for 11 offenders is \$227,014.37 (\$20,637.67 x 11).
- Two persons will be convicted of a Class B felony offense and will serve 2.4 years (876.60 days). The cost per inmate at 2.4 years is \$55,032.95 (\$62.78 x 876.60 days). The total additional operating cost for two offenders is \$110,065.90 (\$55,032.95 x 2).
- The Department of Commerce and Insurance may receive an increase in the number of complaints they receive as a result of this bill. Any additional cost incurred can be accommodated within existing resources without an increased appropriation or reduced reversion.
- A violation of the Tennessee Consumer Protection Act of 1977 is punishable as a Class B misdemeanor with incarceration of a term not greater than six months or a fine not to exceed \$500 or both.
- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" and last name "White" clearly legible, and "W." in the middle.

James W. White, Executive Director

/lsc